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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/133,886	08/13/98	JOHNSON	J 10172-9013-V

IM22/1214
KANE, DALSIMER, SULLIVAN, KURUEZ,
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711 THIRD AVE
NEW YORK, NY 10017

EXAMINER

AHMAD, N

ART UNIT	PAPER NUMBER
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1772

DATE MAILED:

12/14/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/133,886

Applicant(s)
Johnson

Examiner
Nasser Ahmad

Group Art Unit
1772



☒ Responsive to communication(s) filed on Sep 26, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 39, 41, and 72-74 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 39, 41, and 72-74 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on Sep 26, 2000 is ☒ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Specification

1. The substitute specification filed September 26, 2000 has been entered into the file.

DETAILED ACTION

2. Claims 39, 41, 72 and 74 are rejected under 35 USC 102(b) as being anticipated by Ausnit'962 for reasons of record in paper no. 7, paragraphh-3, mailed June 12, 2000.
3. Claims 39, 41 and 72-74 are rejected under 35 USC 102(b) as being anticipated by ausnit'224 for reasons of record in paper no. 7, paragraph-4.
4. Claims 39, 41 and 72-74 are rejected under 35 USC 103(a) as being unpatentable over Ausnit'962 or ausnit'224 for reasons of record in paper no.7, paragraph-6.

Response to Arguments

5. Applicant's arguments filed September 26, 2000 have been fully considered but they are not persuasive. Applicant argues that Claim 39 has been amended to recite that the lip has "a fold therein" and that Claim 72 has been amended to recite that the tape has loop with "a fold therein" which is not suggested or disclosed by the prior art. This is not deemed to be convincing because,

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as shown in the drawings both the Ausnit references disclose the presence of fold as claimed.

However, in the absence of any clear language as to the location of the fold with respect to the other elements of the claimed tape and the specific drawings related thereto, it is not clear as where is the fold located and what is considered "a fold".

Thus, in the absence of any evidence to the contrary, it remains the Examiner's position that the instant invention is anticipated or rendered obvious over the prior art of record discussed above.

6. In addition, the following are new grounds of rejection in view of the amendments to the claims.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 39, 41 and 72-74 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 39, line 11, the word "bend" is found to be indefinite for lack of antecedent basis.

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Claims 39 and 72, the phrase "a fold therein" is deemed to be confusing and indefinite. It is not clear as to the location of the "fold" with respect to the lip and the other elements claimed. Also, it is unclear as to what is being referred to by "therein" with respect to the "fold".

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is (703) 308-4424. The examiner can normally be reached on Monday through Friday from 8:30AM to 6:00PM. The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ellis Robinson, can be reached on (703) 308-2364. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

N. Ahmad.

December 08, 2000.


NASSER AHMAD
PRIMARY EXAMINER